

Guidance for the Montana Public Defender Commission Regarding Complaints

If, as a member of the Montana Public Defender Commission, you are contacted by an individual who has a complaint about the public defender system, it is critical for you to refer the individual to the proper resources to ensure that problems or issues are handled professionally, timely, and consistently. The Office of the State Public defender is subject to state and federal laws, including Equal Employment Opportunity laws, and has policies, procedures and union contracts in place that must be administered fairly and equitably.

All complaints, problems, issues and concerns should be dealt with at the lowest level possible. This document will help you to refer individuals to the appropriate resource depending on the problem they are trying to resolve.

Any client, customer, job applicant, or employee who has a complaint or problem is encouraged to report the incident(s) or action(s) to management as soon as possible after the alleged complaint or problem occurs. Early reporting is encouraged, because management's ability to investigate and act on reports diminishes with time. Management includes the immediate supervisor, Managing Attorney, Regional Deputy Public Defender and the Human Resource/EEO/AA officer. Contractor and client issues should be addressed first to the Regional Deputy Public Defender.

If you receive a complaint, determine the nature of the contact and the relationship with OPD, and then refer the individual to the appropriate resource and assure them that allegations will be treated seriously. Information about the allegation should be shared only with those who need to know about it.

Employees

- Employees should discuss the issue first with their immediate supervisor. However, if the supervisor is part of the problem; or if an attempt has been made and nothing was done; encourage the employee to discuss the issue with the Regional Deputy Public Defender or the Human Resource Officer.
- Employees who are not personally a victim of discrimination, but observe actions against other employees that they believe to be discrimination, should be encouraged to bring it to the attention of the Human Resource/EEO/ADA Officer.
- Any employee or job applicant can bring issues to the attention of the Human Resource Officer for resolution.
- If an employee is represented by the American Federation of State County and Municipal Employees (AFSCME) bargaining unit, they can contact AFSCME at 406-442-1192 and speak with the Field Representative.

Others

- Contractors should discuss the issue first with the appropriate Regional Deputy Public Defender or with the Contract Manager.
- Client grievances are initiated with the appropriate Regional Deputy Public Defender.

GRIEVANCE PROCEDURES

- **Union Employees - AFSCME Bargaining Agreement**
 - Having a desire to create and maintain labor relations harmony between them, the parties hereto agree that they will promptly attempt to adjust all grievances involving the interpretation, application, or alleged violation of a specific provision of the collective bargaining agreement.
 - Step 1 - All grievances must be discussed with the immediate supervisor prior to the filing of a formal grievance and no formal grievance may be filed until the immediate supervisor has been given opportunity to attempt resolution.
 - Step 2 - If the grievance is not resolved informally, a formal grievance may be presented to the Regional Deputy Public Defender.
 - Step 3 - If the grievance is not resolved at Step 2, it may be presented to the Chief Public Defender.
 - Step 4 - Should the Union consider the decision of the Chief Public Defender unsatisfactory, the Union shall, within 15 working days of receipt of such decision, notify the Chief Public Defender and the Chief of the State Office of Labor Relations of its decision to take the grievance to final and binding arbitration.
- **Non Union Employees – State Policy MOM 3-0125**
 - "Grievance" means a complaint or dispute initiated by an employee regarding the application or interpretation of written laws, rules, personnel policies or procedures which adversely affects the employee.
 - Step 1- Both the employee and supervisor are encouraged to resolve the grievance informally whenever possible.
 - Step 2 – A formal grievance shall be filed in writing within 15 working days from the occurrence of the grievable event. The formal grievance shall be filed with the grievant's immediate supervisor. A formal grievance shall state specifically the law, written rule, policy, and or procedure violated; when the action occurred, and the remedy desired by the grievant.
 - Step 3 – Review by the Chief Public Defender - If the grievant wishes to advance the grievance to step III. If the subject of the grievance is suspension without pay for more than 10 working days, disciplinary demotion or discharge, the designated management representative shall order a hearing. All other grievances shall advance to final review by the Chief Public Defender. The Chief Public Defender's final decision is the final step of the grievance procedure.
- **Complaint involving discrimination** in hiring, firing, promotions, compensation, job assignments, and other terms, conditions or privileges of employment, can:
 - 1) Use the agency's complaint resolution procedure. This complaint resolution procedure may not cover members of a collective bargaining unit unless it is stipulated in the bargaining agreement.
 - 2) File a complaint with the Human Rights Bureau, Department of Labor and Industry (P.O. Box 1728, Helena, MT 59624-1728, phone 1-800-542-0807). Complaints with the Human Rights Bureau will be accepted within 180 days of the act, or can be extended 120 days if you are using an internal complaint procedure.

- **Contractor Complaints**

The contractor shall put his/her complaint in writing and forward the same by email to the Contract Manager at lamurphy@mt.gov or by regular mail to 44 West Park, Butte, MT 59701.

The Dispute Resolution Process for Contract Attorney Claims can be found at <http://publicdefender.mt.gov/forms/pdf/DisputeResolution-CA.pdf>.

- **Client Complaints – OPD Policy 110**

The client shall put his/her complaint in writing and forward to the appropriate Regional Deputy Public Defender. The Client Grievance Procedure can be found at <http://www.publicdefender.mt.gov/forms/pdf/110-PolicyClientGrievance.pdf>

The Grievance Form can be found at <http://publicdefender.mt.gov/forms/pdf/ClientComplaintFormforWeb.pdf>